TITLE III.

PARKS AND BOULEVARDS

CHAPTERS:

- 3-01. Parks.
 3-02. Urban Forestry.
 3-03. Boulevards.

CHAPTER 3-01

PARKS

SECTIONS:

- 3-0101. Acceptance by City of Provisions of State Law.
- 3-0102. Compensation of Park Board Members.

3-0101. ACCEPTANCE BY CITY OF PROVISIONS OF STATE LAW. The provisions of Chapter 40-49 of the North Dakota Century Code, and any amendments thereto, are accepted by the City Commission of the City of West Fargo, it being the intent of the City to have a Park District of the City of West Fargo with all the powers and responsibilities as set out in Chapter 40-49 of the North Dakota Century Code, and all amendments thereto.

Source: Ord. 45, Art. 1 (1956).

3-0102. COMPENSATION OF PARK BOARD MEMBERS. Each duly elected and qualified member of the Board of Park Commissioners shall receive One Hundred Dollars (\$100) per month compensation for their services.

Source: Ord. 232, Sec. 1 (1977); Ord. 477, Sec. 1 (1994).

CHAPTER 3-02

URBAN FORESTRY

SECTIONS:

- 3-0201. Definitions.
- 3-0202. Administration.
- 3-0203. City Forester.
- 3-0204. Nuisances.
- 3-0205. Removal of Nuisances.
- 3-0206. Permit for Transporting Firewood.
- 3-0207. Tree Planting or Tree Trimming Permit.
- 3-0208. Planting of Trees by City.
- 3-0209. Tree Topping.
- 3-0210. Interference Prohibited.
- 3-0211. Non-Liability of City.
- 3-0212. Severability.
- 3-0213. Penalty for Violation.

3-0201. DEFINITIONS.

- A. "Boulevard" shall mean that strip of land abutting on either side of the streets of the City lying between the outside edge of the sidewalks and the curb along such streets or that area between the inside edge of sidewalks and the lot lines in areas having curb sidewalks.
- B. "City" shall mean the City of West Fargo and shall include all streets, boulevards, alleys, airport, lagoon, parks and other property.
- C. "City Forester" shall mean the City employee appointed or designated by the City Commission to perform the duties set out in this chapter.
- D. "Easement" shall mean a grant by a property owner of the use of a strip of land for such public use as constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, television or transmission lines, storm sewer or storm drainage ways, gas lines and roadways.
- E. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- F. "Private property" shall mean such property as is shown by the Cass County, North Dakota, Register of Deeds and the owner thereof.

- G. "Property line" means the outer boundaries of any lot or parcel of land (including boulevard).
- H. "Property owner" shall mean the person owning such property and is shown by the Cass County, North Dakota, Register of Deeds.
- I. "Public property" shall be construed to include right of ways, boulevards, and all property owned and maintained by the City or Park District.
- J. "Public trees" are all shade and ornamental trees now or hereafter growing on any public right of way or in any public place or park.
- K. "Streets" shall mean the entire width between property lines of every way or place of whatsoever nature when any part thereof is open to the use of the public as a matter of right of way for the purpose of vehicular traffic.
- L. "Width of boulevard" means the distance between the sidewalk, or the normal location of the sidewalk, and curb line or curb.

3-0202. ADMINISTRATION.

- <u>Urban Forestry Committee</u>. There is hereby created an Urban Forestry Committee to serve without compensation consisting of six members. Appointment shall be by the City Commission with the exception of one member, who shall be appointed by the Park District, for three year One member shall be a member of the City Commission, one from the Park Board or it designee, and four members from the public at large. The City Commission may also appoint ex-officio non-voting members to the committee as they deem advisable. The initial appointments shall be for two members for three years, two members for two years, and two members for one year. As the terms of office expire, the City Commission shall make appointments for three year terms, with the exception that the Park District shall appoint a new member when the term of the member previously appointed by the Park District expires. Any member may resign or be removed for reason by the City Commission. Any member who misses three consecutive meetings and/or six meetings in one calendar year, may be removed by the City Commission through recommendation from the remaining members of the Forestry Committee.
- B. <u>Duties and Purpose of the Urban Forestry Committee</u>. It shall be in the authority of the Urban Forestry Committee

within the limits of the funds at its disposal, to act in an advisory capacity to the Board of City Commissioners and to plan, establish and implement a forestry program. The purpose of the Urban Forestry Committee is to:

- Promote and provide for immediate and long range resource planning;
- 2. Establish and provide for rules and regulations relating to planting, maintenance and removal of greenery in the community;
- 3. Provide education and support for the public and private sectors of the community;
- 4. Establish and provide for a beautification program for the community;
- 5. Develop an annual Work Program for forestry in the community for approval by the City;
- Develop and recommend levels of staffing and funding for forestry needs in the community;
- 7. Implement the 8th Street Centennial Tree Planting Plan.

To accomplish its purposes, goals and objectives, the Urban Forestry Committee shall make recommendations to the Board of City Commissioners.

3-0203. CITY FORESTER.

- A. The City Commission shall appoint or designate a City employee as the City Forester, who shall have the duties, responsibilities, and authority as set out in Chapter 3-02.
- B. The City Forester shall have the authority and jurisdiction, with the recommendations of the Urban Forestry Committee, to regulate the planting, maintenance, protection, and removal of all trees on streets or other public places, to ensure safety, or preserve the aesthetics of such streets and public places.
- C. The City Forester shall have the authority to make known, with the recommendations of the Urban Forestry Committee, the rules and regulations of the Arboricultural Specifications and Standards of Practice governing the

- planting, maintenance, protection, and removal of trees, as specified on the streets and public areas of the City.
- D. The City Forester shall have the authority to supervise all work done under any permit or contract, issued in accord with the terms of this chapter.
- 3-0204. NUISANCES. The following conditions are public nuisances whenever they may be found in the City:
 - A. Any living or standing elm tree or part thereof infected to any degree with the dutch elm disease, fungus, Ceratocystis ulmi, and which harbors any of the elm bark beetles, Scolytus multistriatus, or Hylurgopinus rufipes, or other tree species infected by a disease determined a nuisance by the Urban Forestry Committee.
 - B. Planting of disease prone elm trees or other tree varieties as identified by the Urban Forestry Committee shall be prohibited on boulevards, public property, and other city right-of-ways for the purpose of preventing the spreading of disease.
 - C. Limbs of trees, shrubs, bushes and plants shall not be less than eight feet above the surface of a sidewalk, if projecting over the sidewalk, nor shall they be less than fourteen feet above the surface of a street or alley, if projecting over the street or alley. Any limbs of trees, shrubs, bushes and plants which are in violation to this provision are hereby declared to be public nuisances.
 - D. On corner lots any trees or shrubbery planted or allowed to grow in such a manner as to materially impede vision between a height of 2½ feet and 10 feet above the center line grades of intersecting streets and within thirty feet of the point of curvature of the intersecting street curbs shall be declared a public nuisance.
 - E. Any outside storage of wood, including cut trees used for fuel, shall be elevated off the ground at least six (6) inches to provide sufficient clearance for ventilation and to deter infestation and inhabitation by rats and other vermin.
 - F. All stumps of elm trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground, or the entire stump shall be stripped of bark upon cutting of the tree.

3-0205. REMOVAL OF NUISANCES. If the City Forester determines that one of the nuisances set out in Section 3-0204 exists within the City, the City Forester shall give notice to remove the nuisance to the proper party pursuant to Section 15-03-12 of the Ordinances of the City of West Fargo. If the nuisance is not abated within the time set forth in the Notice of Nuisance, the City shall have the right and authority to remove the nuisance and assess the costs incurred by the City in the removal of the nuisance pursuant to the provisions of Section 15-0314 of the Ordinances of the City of West Fargo. The City Forester may enter upon private property at any reasonable time for the purpose of determining whether or not a nuisance exists, abating the nuisance according to the provisions of this chapter, and in carrying out any other provisions of this chapter.

3-0206. PERMIT FOR TRANSPORTING FIREWOOD. An annual permit, available from the City Auditor, is required for all firewood transported within the City limits. All firewood consisting of elm shall be debarked prior to transport into and within the City.

3-0207. TREE PLANTING OR TREE TRIMMING PERMIT.

- A. No person, firm or corporation shall hereafter plant or trim, or cause to be planted, any tree, shrub or other vegetable growth within the limits of any street, alley, boulevard or other public way of the City without first having obtained therefor a written permit from the City Auditor. Provided, however, the owner of a lot shall not be required to obtain a permit to trim trees on the boulevard immediately abutting the lot owned by the owner.
- Any person, firm or corporation desiring to plant any В. tree, shrub or other vegetable growth within the limits of any street, alley, boulevard or other public way of the City must first apply to the City Auditor for a written permit therefor. After the receipt of such application, the City Forester shall investigate the locality where the tree, shrub or other vegetable growth is to be placed. The permit shall be granted only if the location is such as to allow the normal growth and development of such tree, shrub or other vegetable growth and is consistent with the public safety and welfare. the permit shall be in writing, shall specify the location, the variety of trees, shrub or vegetable growth, and the method of planting, and shall be good only for the season stated on the same in the year issued, and no charge shall be made for such permit. In addition, such trees shall meet the requirements set out in Section 4-532 of the Ordinances of the City of West Fargo.

- C. In cases where building permit applications are involved for residential construction or for construction on lots abutting 13th Avenue East, a tree planting fee shall be paid to the City of West Fargo prior to the issuance of the permit as provided in Section 4-532 of the Ordinances of the City of West Fargo. In addition, the size and other regulations relating to the trees as set out in Section 4-532 must be followed.
- Any person, firm or corporation desiring to trim any D. tree, shrub or other vegetable growth within the limits of any street, alley, boulevard or other public way of the City must first apply to the City Auditor for a written permit therefor. A permit shall not be required of the owner of the property which abuts that portion of the public way upon which the growth is located. After the receipt of such application, the City Forester shall investigate the locality of the tree, shrub or other vegetable growth that is intended to be trimmed. permit shall be in writing, shall specify the location, the variety of trees, shrub or vegetable growth, and the method of trimming, and shall be good only for the season stated on the same in the year issued, and no charge shall be made for such permit. In the event an emergency exists, the emergency condition may be resolved without a permit, but a report must be filed with the City Auditor relating to the emergency work completed within one working day, and a permit must be received for any additional work to be done not of an emergency nature.

Source: Ord. 432, Sec. 1 (1992).

3-0208. PLANTING OF TREES BY CITY. In order to secure uniform and continuous planting of trees along such streets and avenues as shall be designated by the Board of City Commissioners, said Board of City Commissioners may, upon the petition of not less than forty percent (40%) of the property owners along such street or avenue, order the planting of trees under the provisions in the Revised Ordinances of 1990 of the City. The cost of such a project shall be determined through competitive bidding practices and shall be borne by the property owners either through direct payment or special assessment.

3-0209. TREE TOPPING. It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property or dedicated utility easements. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

- 3-0210. INTERFERENCE PROHIBITED. It shall be unlawful for any person to prevent, delay, or interfere with the Urban Forestry Committee, City Forester, or any City employee while engaged in the performance of the duties set out in this chapter.
- 3-0211. NON-LIABILITY OF CITY. Nothing in this chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees nor to relieve the owner of any private property from the duty to keep trees and shrubs upon private property or under their control in a safe condition.
- 3-0212. SEVERABILITY. Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any pert thereof, other than the part declared to be invalid.
- 3-0213. PENALTY FOR VIOLATION. Any person violating any section of this chapter shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211 of the Ordinances of the City of West Fargo. Each day such violation continues shall be considered a separate offense.

Source: Ord. 410, Sec. 2 (1991)

CHAPTER 3-03

BOULEVARDS (Ord. 599, Sec. 1 (2000))

Sections:

3-0301.	Definitions.
X — [] X [] [NATI NITI ANG
J (JJ) (J + •	

3-0302. Prohibited Acts or Encroachments.

3-0303. Permits.

3-0304. Driving on Sidewalk or Boulevard.

3-0305. Care of Boulevard.

3-0306. Penalty.

3-0307. Placement of Mail Boxes. (Ord. 712, Sec. 1 - 2004)

3-0301. DEFINITIONS.

1. "Boulevard" or "Berm" shall mean that area of ground between the roadway and the sidewalk or, if there be no sidewalk, it is the area of the ground between the roadway and the dedicated limits of the street or avenue.

2. "Roadway" shall mean that portion of the street or avenue improved, designed or ordinarily used for vehicular travel.

3-0302. PROHIBITED ACTS OR ENCROACHMENTS.

- 1. Parking: No person shall stop, stand or park a motor vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, upon a sidewalk or boulevard.
- 2. Signs: Any sign or signs or billboard, except official or quasi-official signs, standing or erected upon a boulevard is a public nuisance and may be abated by removing the sign.
- 3. Buildings: No person shall erect or cause to be erected or permit any building or structure to stand upon the boulevard, other than a mailbox.
- 4. It is prohibited to store any equipment, building materials, inventory, or any other material upon the boulevard.

3-0303. PERMITS. Nothing herein shall prohibit the parking of motor vehicles upon the sidewalk or boulevard, the erection of signs or billboards upon the boulevard, the maintaining of a building or structure upon the boulevard, or the storage of equipment, material or inventory upon the boulevard if written application is made to the City Commission requesting the privilege of parking motor vehicles upon the sidewalk or boulevard, the erection of signs or billboards upon the boulevard, the maintaining

of a building or structure upon the boulevard, or the storage of equipment, inventory or equipment upon the boulevard, and the City Commission grants such permission by resolution.

3-0304. DRIVING ON SIDEWALK OR BOULEVARD. No person shall drive any vehicle over, across or upon any sidewalk, curb or boulevard except where there are driveway crossings. Provided, however, the owner or occupant or his agents or employees may drive over the same temporarily when necessary to obtain access to the premises if permission to do so is first obtained from the Public Works Director of the City. The Public Works Director, in granting such permission, may require protective measures to protect the curb, sidewalk, and boulevard, which protective measures must be removed immediately after such temporary use.

3-0305. CARE OF BOULEVARD. It shall be the responsibility of the abutting property owner to seed or sod the boulevard. No gravel, pavement, or other hard surface may be placed on the boulevard except for a driveway or sidewalk. No tree, shrub, or other plant or vegetable growth may be planted within the boulevard without a permit issued pursuant to Section 3-0207 of the West Fargo City Ordinances. Provided, however, that a person or entity desiring to place gravel, pavement or other prohibited material in the boulevard may make written application to the City Commission, and the City Commission, by resolution, may approve such request when the City determines that it is in the best interest of the City to do so or where there is some other extenuating circumstance which would make the planting or maintaining of grass difficult or inappropriate.

3-0306. PENALTY. A violation of this chapter may be punishable as an infraction as set forth in Section 1-0211 of the West Fargo City Ordinances.

3-0307. PLACEMENT OF MAIL BOXES. The City Commission shall have the authority to control the placement of mail boxes on City boulevards and right of ways whether or not mail boxes have been existing on such boulevards and right of ways in the past. Such authority shall include but not be limited to requiring mail boxes to be placed only on one specified side of a street, or requiring combined mail boxes at one location to serve multiple residences, or requiring temporary placement of mail boxes during periods of heavy construction. In developing such requirements for individual neighborhoods, the City should coordinate with the U. S. Postal Service, as well as the residents effected so as to improve mail delivery, improve parking conditions, and alleviate problems that have occurred in the past in a particular neighborhood.

Source: Ord. 712, Sec. 1 (2004)